

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TORIANO GERMAINE HUDSON,

Plaintiff,

v.

DIAZ, et al.,

Defendants.

Case No. [15-cv-00787-SI](#)

**ORDER REGARDING DISCOVERY  
AND BRIEFING SCHEDULE**

Re: Dkt. No. 60

This matter is now before the court for consideration of plaintiff's request for discovery before summary judgment proceedings. Docket No. 60. To evaluate that request, it is necessary to recount some procedural history. This action has been pending for more than fifteen months. More than thirteen months ago, in the order of service, the court explicitly authorized the parties to conduct discovery. Docket No. 8 at 5. Although the court had ordered service of process on the individual defendant police officers who allegedly used excessive force on him during an arrest, plaintiff repeatedly tried to amend to state a claim against the Richmond Police Department. *See* Docket No. 45 at 1-2; Docket No. 57. On April 19, 2016, the court granted in part defendants' motion to dismiss, dismissing the Richmond Police Department from this action without further leave to amend because, despite repeated efforts, plaintiff had been unable to state a claim against that defendant. Docket No. 57. In that same order, the court denied plaintiff's third request for appointment of counsel and set a briefing schedule for summary judgment motions, with defendants' motion for summary judgment being due on June 24, 2016. *Id.* at 6.

Returning now to plaintiff's request for discovery, the court notes that plaintiff has not indicated that he has done *any* discovery, nor does he explain the specific discovery he plans to do. A diligent plaintiff would have had ample time to complete discovery in the thirteen months since

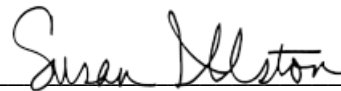
1 the court explicitly authorized the parties to conduct discovery. Plaintiff's request for discovery is  
2 DENIED. Docket No. 60. Although plaintiff has not shown good cause for his request, in the  
3 interest of justice, the court will reset the briefing schedule (at the end of this order) to allow  
4 further opportunity for discovery. Plaintiff must act diligently -- promptly sending his discovery  
5 requests and promptly following up if he does not receive satisfactory answers to those requests --  
6 so that he can finish his discovery in this additional period.

7 It may be that plaintiff thinks the court will do discovery for him, but that would be an  
8 erroneous belief because it is the responsibility of the parties to conduct their own discovery. If  
9 plaintiff wants to attempt to obtain discovery, he must comply with the discovery rules in Federal  
10 Rules of Civil Procedure 26-37. The court generally is not involved in the discovery process and  
11 only becomes involved when there is a dispute between the parties about discovery responses.  
12 Discovery requests and responses normally are exchanged between the parties without any copy  
13 sent to the court. *See* Fed. R. Civ. P. 5(d) (listing discovery requests and responses that "must not"  
14 be filed with the court until they are used in the proceeding or the court orders otherwise). Only  
15 when the parties have a discovery dispute that they cannot resolve among themselves should the  
16 parties even consider asking the court to intervene in the discovery process. The court does not  
17 have enough time or resources to oversee all discovery, and therefore requires that the parties  
18 present to it only their very specific disagreements. To promote the goal of addressing only very  
19 specific disagreements (rather than becoming an overseer of all discovery), the court requires that  
20 the parties meet and confer to try to resolve their disagreements before seeking court intervention.  
21 *See* Fed. R. Civ. P. 37(a); N. D. Cal. Local Rule 37. Where, as here, one of the parties is a  
22 prisoner, the court does not require in-person meetings and instead allows the prisoner and defense  
23 counsel to meet and confer by telephone or exchange of letters. Although the format of the meet-  
24 and-confer process changes, the substance of the rule remains the same: the parties must engage in  
25 a good faith effort to meet and confer before seeking court intervention in any discovery dispute.  
26 Plaintiff's discovery requests should not be filed with the court, and instead must be served on  
27 defendants by sending them to defense counsel.  
28

1 The court now resets the briefing schedule for summary judgment motions: No later than  
2 **September 9, 2016**, defendants must file and serve their motion for summary judgment, or notify  
3 the court that the case cannot be resolved by summary judgment. No later than **October 7, 2016**,  
4 plaintiff must file and serve his opposition to the motion for summary judgment. No later than  
5 **October 21, 2016**, defendants must file and serve their reply, if any.

6 **IT IS SO ORDERED.**

7 Dated: June 2, 2016

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9 SUSAN ILLSTON  
10 United States District Judge  
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